

TENNESSEE GENERAL ASSEMBLY  
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

HB 2439 – SB 2430

March 12, 2016

**SUMMARY OF ORIGINAL BILL:** Authorizes a municipality that has adopted home-rule; is located in a county with a population of 150,000 or less; and operates an electric system; to authorize the city mayor or other person to form a municipal electric or telecommunication authority upon the adoption of a resolution urging a municipal mayor or other person to form such authority. States the authority will be for the purpose of planning, acquiring, constructing, improving, furnishing, equipping, financing, owning, operating, and maintaining electric utility or telecommunication systems within or outside the corporate limits of the associated municipality and within or outside of the state. Specifies that an authority providing telecommunication services will be subject to all of the obligations, restrictions, and limitations imposed upon municipalities under present state and federal law.

Outlines the requirements to be included in the certificate of incorporation that must be filed and approved by the Secretary of State (SOS) and outlines the process for amending the certificate of incorporation. Declares that the approval from the SOS is conclusive evidence that the authority has been formed. Requires the authority to be a public corporation and a political subdivision of the state and a body politic and corporate.

Outlines the powers of the authority and specifies that the authority is required to operate independently of any others and shall be self-sustaining. States the affairs of the authority and the exercise of the powers of the authority are vested in the authority's board of directors. Outlines the powers and selection process of and for authority board members.

Specifies that the authority may not be operated for gain or profit or primarily as a source of revenue to the associated municipality or any other person or entity; however the authority may collect rates, fees, or charges for the services, facilities, and commodities made available by the authority that will allow the authority to remain self-supporting without appropriations from the state or any other political subdivision of the state.

Authorizes the authority to issue bonds with the approval of the authority board for specified purposes and outlines the items to which the proceeds resulting from the sale of any bond may be applied. States all systems, property, revenue, and bonds issued by the authority and the income therefrom of the authority will be exempt from state, county, and municipal taxation except otherwise provided by the laws of the state.

Clarifies that in the event an authority ceases to exist, all remaining assets after the satisfying of obligations and liabilities will become the property of the associated municipality.

## **FISCAL IMPACT OF ORIGINAL BILL:**

Other Fiscal Impact – To the extent an associated municipality creates an authority for the provision of electric utility and telecommunications services, the authority will incur costs to create and maintain the infrastructure. The authority will collect fees from its service users to offset the authority's expenditures. The extent and timing of any such impacts are dependent upon several unknown factors and cannot be precisely determined. However, any permissive and recurring increase in local expenditures, and any permissive and recurring increase in local revenue, for any such local entity are reasonably estimated to exceed \$100,000 per year.

## **IMPACT TO COMMERCE OF ORIGINAL BILL:**

Other Fiscal Impact – To the extent an associated municipality elects to create an authority for the provision of electric utility or telecommunications services, there could be a positive impact to jobs and commerce in the state; however, the extent of any such impacts cannot be reasonably quantified.

**SUMMARY OF AMENDMENT (012990):** Deletes and rewrites the bill such that the substantive changes are as follows: to clarify that the authority shall be subject to the territorial limitations set forth in Tenn. Code Ann. § 7-52-601; to clarify that nothing in a section of law from another state or nation shall alter, impair, or modify the rights, privileges, and obligations of the authority as a governmental entity under this legislation; to authorize a person authorized by the board other than the president or the president's designee to sign binding documents; to require the president of the authority to keep full and proper records of all operations and affairs of the authority and to keep separate books and accounts for each system; and requires, if a conflict arises between this legislation and the Perfection, Priority and Enforcements of Public Pledges and Liens Act, as codified in Tennessee Code Annotated Title 9, Chapter 22, that the Perfection, Priority and Enforcements of Public Pledges and Liens Act shall control.

## **FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:**

**Unchanged from the original fiscal note.**

Assumptions for the bill as amended:

- Based on information from the Comptroller's Office of State and Local Finance, the Comptroller will be responsible for providing certain technical services to any newly-created municipal electric authorities created under the provisions of the bill; however, since the Comptroller's Office currently provides certain technical services to municipal

electric utility corporations, any increase in state expenditures to provide technical services to newly-created electric authorities is estimated to be not significant.

- Based on information from the SOS, any increase in state expenditures resulting from filing, processing, and modification of the Tennessee Business Entity Annual Reporting System to include a new subtype of authority is estimated to be not significant.
- The number of associated municipalities voting to form an authority, the number of eligible services provided by the authority, the service area of the authority, and costs associated with the creation and provision of service are unknown; however, any cost borne by the authority is assumed to be offset by a fee for the provision of service collected by the authority from the service users. Such costs and fees are reasonably estimated to exceed \$100,000 per authority created.

## **IMPACT TO COMMERCE WITH PROPOSED AMENDMENT:**

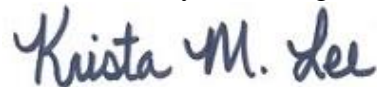
### **Unchanged from the original fiscal note**

Assumptions for the bill as amended:

- Associated municipalities electing to create authorities to provide electric utility and telecommunication system services may result in the creation of jobs in Tennessee.

## **CERTIFICATION:**

The information contained herein is true and correct to the best of my knowledge.



Krista M. Lee, Executive Director

/amj